

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JUNE 6, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-20398 - APPLICANT/OWNER: LUIS ROJAS**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE MAY 16, 2007 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (4-2/gt/sd vote) recommends APPROVAL. If Approved, subject to:

**Planning and Development**

1. Conformance to the conditions for Rezoning (ZON-20397), Site Development Plan Review (SDR-19675) and Variance (VAR-20399) if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The purpose for this Variance is to allow eight parking spaces where 18 parking spaces are required in conjunction with a proposed 5,376 square-foot office building.

A related Rezoning (ZON-20397) to rezone the property from R-1 (Single-family Residential) to P-R (Professional Office & Parking), Site Development Plan Review for a proposed 5,376 square-foot office building and a waiver of the perimeter landscape buffer standards and related Variance (VAR-20399) to a 50-foot lot width where 60 feet is required, to allow 60% lot coverage where a maximum lot coverage of 50% is allowed, a side yard setback of zero feet where eight feet is required, a rear yard setback of 13.33 feet where 15 feet is required, and a corner setback of 6.5 feet where 15 feet is required will be heard concurrently with this application.

The applicant is attempting to significantly overdevelop this parcel with a building that doesn't meet setbacks, landscaping standards, parking standards, and is proposing a modernist building in the Las Vegas High School Historic District.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
09/25/05	The City Council accepted a withdrawal without prejudice of a Variance (VAR-6937) to allow a five-foot setback where residential adjacency standards require 105 feet, a Variance (VAR-6938) to allow 24 parking spaces where 43 spaces are required, and a Site Development Plan Review (SDR-6934) for a 12,857 square-foot office building, and a Rezoning (ZON-7254) of this property and the adjacent two parcels to the south from R-1 (Single-family Residential) to P-R (Professional Office & Parking). These applications were for the two adjacent parcels to the south. Staff recommended approval of the Rezoning and denial of the Variances and Site Development Plan Review. The Planning Commission recommended approval of all applications.
04/12/07	<p>The Planning Commission recommended approval of companion items ZON-20397; VAR-20399 and SDR-19675 concurrently with this application.</p> <p>The Planning Commission voted 4-2/gt/sd to recommend APPROVAL (PC Agenda Item #67/jk).</p>

<b><i>Related Building Permits/Business Licenses</i></b>	
11/19/04	Demolition permit 31045-R-04 was approved by Planning & Development and by Building & Safety.
<b><i>Pre-Application Meeting</i></b>	
01/5/07	At the pre-application meeting the applicant was informed about the setback and landscape requirements for the proposed development. The applicant was also informed about the parking requirements and was asked by Public Works to revise their parking layout to meet ADA requirements.
<b><i>Neighborhood Meeting</i></b>	
A pre-application meeting is not required for this application type, nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	0.16 ac

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped*	MXU (Mixed-Use – Downtown Redevelopment Plan Area)	R-1 (Single-Family Residential District)
North	Office	MXU (Mixed-Use – Downtown Redevelopment Plan Area)	R-1 (Single-Family Residential District)
South	Undeveloped & Single-family Residential	MXU (Mixed-Use – Downtown Redevelopment Plan Area)	R-1 (Single-Family Residential District)
East	Office	MXU (Mixed-Use – Downtown Redevelopment Plan Area)	R-1 (Single-Family Residential District)
West	Office	MXU (Mixed-Use – Downtown Redevelopment Plan Area)	R-1 (Single-Family Residential District)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>		X	
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

Pursuant to Title 19.08, the following development standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size			
Min. Lot Width	60	50	N
Min. Setbacks			
• Front	20	20	N
• Side	8	Zero	N
• Corner	15	6.5	N
• Rear	15	13.33	N
Min. Distance Between Buildings	N/A	N/A	N/A
Max. Lot Coverage	50%	60%	N
Max. Building Height	2 Stories/35 Feet	2 Stories/ 34 Feet, 2 Inches	Y
Trash Enclosure	50 Feet From Residential	7.33 Feet	N/A*
Mech. Equipment	Screened	Screened	Y

\* This property is adjacent to R-1 zoned, MXU Master Planned [(Mixed-Use – Downtown Redevelopment Plan Area)] Offices to the east.

Pursuant to Title 19.12, the following development standards apply:

<i>Landscaping and Open Space Standards</i>				
<i>Standards</i>	<i>Required</i>		<i>Provided</i>	<i>Compliance</i>
	<i>Ratio</i>	<i>Trees</i>		
Parking Area	1 Tree/6Spaces	2 Trees	Zero	N
Buffer:				
Min. Trees	1 Tree/20Linear Feet	9 Trees	6 Trees	N
<b>TOTAL</b>		11 Trees	6 Trees	N
Min. Zone Width	15 Feet & 8 Feet		Zero Feet, 6.5 Feet, & 15 Feet	N*
Wall Height	N/A		N/A	N/A

\* The proposed development meets the required landscape buffer width only along the Eighth Street frontage.

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Office	5,376 sq. ft.	1:300	17	1	7	1	N
TOTAL (including handicap)			18		8		
Loading Spaces							
Percent Deviation (VAR only)			55% Parking Deviation				

## ANALYSIS

The applicant has proposed a building that greatly exceeds the lots ability to accommodate the necessary parking for a 5,376 square-foot office. With a maximum number of eight parking spaces as proposed by the applicant, the maximum square footage permitted by code is 2,400 square feet.

## FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by overdeveloping a lot that can't adequately accommodate the size of the building and parking necessary for said building. An alternative design reducing the size of the building would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 16

**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 3

**NOTICES MAILED** 189 by City Clerk

**APPROVALS** 1

**PROTESTS** 5